

July 14, 2006

VIA ELECTRONIC DELIVERY AND U.S. MAIL

Alessandro A. Iuppa, Superintendent
Attn: Vanessa J. Leon
Docket No. INS-06-900
Maine Bureau of Insurance
34 State House Station
Gardiner, Maine 04333-0034

In Re: Review Of Aggregate Measurable Cost Savings Determined By Dirigo Health
For The Second Assessment Year

FILING COVERSHEET

Dear Superintendent Iuppa:

Enclosed for filing please find the following:

SUBMITTED BY: Anthem BCBS, Maine Association of Health Plans, Maine
Automobile Dealers Insurance Trust and Maine State Chamber of
Commerce

DATE: July 14, 2006

DOCUMENT TITLE: Payor Intervenor Joint Response to Hearing Questions for
Citations to the Record

DOCUMENT TYPE: Response to Hearing Questions

CONFIDENTIAL: **NO**

Thank you for your assistance in this matter.

Very truly yours,

/s/ Counsel for Intervenors

NON-CONFIDENTIAL

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
BUREAU OF INSURANCE

IN RE:)	
)	
REVIEW OF AGGREGATE)	PAYOR INTERVENORS' JOINT
MEASURABLE COST SAVINGS)	RESPONSE TO HEARING
DETERMINED BY DIRIGO HEALTH)	QUESTIONS FOR CITATIONS TO
FOR THE SECOND ASSESSMENT)	THE RECORD
YEAR)	
)	
Docket No. INS-06-900)	
)	July 14, 2006

NON-CONFIDENTIAL

Intervenors Anthem Health Plans of Maine, Inc., Maine State Chamber of Commerce, Maine Association of Health Plans, and Maine Automobile Dealers Association Insurance Trust (“Payor Intervenors”) provide the following in response to the Superintendent’s Hearing Questions for Citations to the Record.

Hospital Initiatives

Question	Summary of Cited Record Evidence	Record Citations
Is there any evidence in the record that contradicts the assertion that under MaineCare, Maine non-Critical Access Hospitals are paid based on their costs for outpatient services?	No, the evidence in the record is that Maine non-Critical Access Hospitals are paid based on their costs for outpatient services.	MaineCare Hospital Reimbursement Regulations, A.R. 4671-4685; <i>see also</i> Brauner, AR 5104-5105, Tr. p. 52, ln. 13-p.53, ln.24 (critical access hospitals paid based on costs); Mercier, A.R. 5157, Tr. 109, lns. 5-19 (same).
In the spreadsheet produced by Mercer to compute savings related to expense/CMAD (AR 1112-1159), the row labeled “Hospital Tax Allocation” in the top section of the tables contains hospital fiscal year values for hospital fiscal years 2000-2005. In the lower section labeled “State Fiscal Year”, there is another row labeled “Hospital Tax Allocation” that contains state fiscal year weighted averages of the component hospital fiscal year’s Hospital Tax Allocation amounts for SFYs 2000-2004. For SFY2005, the amounts in this row do not appear to be calculated using the same weighted formula, and are not reconcilable in any obvious way to the Hospital Tax Allocation row in the first section of the worksheet. Is there any evidence in the record that explains the source of the data in row labeled “Hospital Tax Allocation” in the State Fiscal Year section of the worksheets for		

Question	Summary of Cited Record Evidence	Record Citations
the SFY2005 period?		
Is there any evidence in the record that contains measures of MaineCare as a percentage of total costs and/or revenue by hospital, and similarly the proportion of MaineCare costs and/or revenue in outpatient hospital activity by hospital?	MaineCare's share of a hospital's total costs (as reflected in the Medicare cost report) is determined by patient utilization (MaineCare days as a percentage of total days for inpatient, and Medicare cost to charge ratios for outpatient); the evidence in the record is that 50% of Maine hospital revenue is derived from MediCare and MaineCare and that approximately 65% of Maine hospital utilization comes from other than those with commercial insurance.	Drottar Prefiled, A.R. 3159, ln.10-A.R. 3160, ln.2; A.R. 3160, lns. 16-23; A.R. Keane Prefiled, A.R. 3121, lns. 11-15; Michaud Prefiled, A.R. 4313, lns. 9-14; Michaud, A.R. 5147, Tr. p. 70, ln.15-p.71, ln.7; Russell, A.Rr 5000, p.112, lns. 2-5; Roberts Prefiled, A.R. 3104, lns. 7-16; Mercier, A.R. 5156, Tr. 107, ln.9-p.108, ln. 7; Brauner, A.R. 5105, Tr. 53, lns. 18-21

Certificate of Need and Capital Investment Fund Initiatives

Question	Summary of Cited Record Evidence	Record Citations
Is there any evidence in the record that would call into question the notion that the savings measure related to Cost/CMAD captures all costs related to capital spending initiatives (including costs of the type addressed in the savings measure related to CON approvals) in the year those costs are incurred by the hospital?	No, it is undisputed that the cost/CMAD measure captures all costs related to capital spending initiatives in the year those costs are incurred.	Schramm, A.R. 5143, Tr. p.54, lns. 14-24; Schramm, A.R. 5045, Tr. p. 292, lns. 4-7; Schramm, A.R. 5047, Tr. 297, ln. 1- p.298, ln. 7; Cobb, A.R. 5039, Tr. 265, lns. 8-19; Michaud Prefiled , A.R. 4313, ln.22-4314, ln. 11
Is there any evidence in the record that CON savings could be realized by payors in a year (e.g., 2005) before the expenses (and any associated expense savings) are actually realized by the hospitals and thus captured in the CMAD calculation (e.g., those realized in 2006)?	No, the only evidence in the record is the CON savings calculated by the DHA Board methodology include expenses that would not be incurred until a future period and would be reflected in the applicable future CMAD calculation.	Schramm, A.R. 5045, p.290, lns. 15-19; Cobb, A.R. 5035, Tr. 252, ln. 1-p.253, ln. 5; Schramm, A.R. 5143, Tr. p.54, lns. 14-24; Schramm, A.R. 5045, Tr. p. 292, lns. 4-7; Schramm, A.R. 5047, Tr. 297, ln. 1- p.298, ln. 7; Cobb, A.R. 5039, Tr. 265, lns. 8-19; Michaud

Question	Summary of Cited Record Evidence	Record Citations
		Prefiled , A.R. 4313, ln.22-4314, ln. 11

Health Care Provider Fee Initiatives

Question	Summary of Cited Record Evidence	Record Citations
In appendix H, item 1 of the SOP Calculations, it is asserted that there are increases in PIP payments in the state budget of \$37,954,000 (SFY 2006 vs. SFY 2005) and \$58,246,000 (SFY 2007 vs. SFY 2005). Dirigo asserts that these increases are due to Dirigo initiatives. Is there any evidence in the record providing an alternate explanation for these increases other than what has been asserted by Dirigo?	PIP payments are intended to provide reimbursement to hospitals that is as close as possible to reimbursing them to the cost of the services that they are providing that year, so a PIP increase necessarily must occur when MaineCare enrollment and utilization increases if PIP is to work as required by MaineCare hospital reimbursement regulations and explained by Mr. Greene, and MaineCare enrollment and utilization in fact increased.	Green, A.R. 5053, Tr. 323, lns. 2-15; A.R. 4264; Michaud Prefiled, A.R. 4311, ln. 16 – 4313, ln.8; Michaud, A.R. 5145-5146, Tr. 64, ln.22 – p.66, ln.2; MaineCare Hospital Reimbursement Regulations, 10-144 CMR 101, Ch. III, Section 45.01-7 at A.R. 4675 (defining PIP as the weekly payment made to hospitals “based on the estimated total annual <u>Department</u> obligation... .”)

Uninsured Initiatives

Bad Debt & Charity Care

Question	Summary of Cited Record Evidence	Record Citations
Is there any evidence in the record about the development of the .497 factor for the impact of discounted charges? Or is there any discussion in the record about these issues?	Payor Intervenors are unaware of any evidence in the record to support this factor.	
Appendix E of the SOP Calculations asserts that there were 132,000 uninsured Mainers in 2004 and refers to 2004 Census Data for backup. Is there any evidence in the record to demonstrate why this number changed from 136,000 used in	Payor Intervenors are unaware of any evidence in the record to support this adjustment.	

Question	Summary of Cited Record Evidence	Record Citations
Year 1 for the same period? Please provide more detail on what is meant by “2004 Census Data” and citations to the source documents in the record?		
There are several references in the record to the “2006 DirigoChoice Member Survey”. Example: Appendix E of SOP Calculations. Where is this document in the record?	The <u>2005</u> Dirigo Choice Member Survey is located at A.R. 3658; 3693; however, Payor Intervenors have been unable to locate the <u>2006</u> Dirigo Choice Member Survey in the record.	
In year 1, Dirigo used a factor of 1.362 to estimate the increased risk of the earliest enrollees. This same factor of 1.362 from year 1 was carried forward into Year 2 even though the additional enrollments are not the earliest enrollees. What evidence in the record supports leaving this number the same in Year 2 as in Year 1?	Payor Intervenors are unaware of any evidence in the record to support the continued use of this factor.	
At page 12 of Dirigo’s brief it is asserted that Mercer used a methodology for this initiative that was approved by the Superintendent’s year one Decision. Please provide a citation to that Decision that supports Mercer adjusting the methodology from a charge to a cost basis.		

MaineCare Expansion

Question	Summary of Cited Record Evidence	Record Citations
Is there any evidence in the record to support Dirigo’s determination that the measurement period of 18 months for savings attributed to Maine Care expansion is the proper measurement period?	No, the Dirigo Legislation calls for an annual determination of aggregate measurable cost savings and there is no evidence to support the use of inconsistent measuring periods in either the Statute or Decision and Order	24-A M.R.S.A. § 6913; First Assessment Year Decision and Order, Docket No. INS-05-700, A.R. 4727 (“The savings offset payments will be levied during CY 2006 and should correspond to

Question	Summary of Cited Record Evidence	Record Citations
	from the Superintendent.	savings that have already been achieved and measured.”)

Woodwork Effect

Question	Summary of Cited Record Evidence	Record Citations
Justyn Rutter’s e-mail of 2/27/2006 to Kevin Russell and Michelle Raleigh (all 3 are Mercer staff) concludes that public expansion will crowd-out private insurance; i.e. the private woodwork effect is negative savings. Handwritten notes of Mercer conference reiterate that conclusion. How is it reasonably supported by evidence in the record for the determination made by the Dirigo Board to not factor in private woodwork effect negative savings? <i>See</i> pages 3718-3722 of the record.	Payor Intervenors are unaware of any evidence in the record to support the failure to factor in these negative savings.	

DATED: July 14, 2006

/s/ Christopher T. Roach
Christopher T. Roach, Esq.
PIERCE ATWOOD LLP
One Monument Square
Portland, Maine 04101
Counsel for Anthem Health Plans of Maine, Ins.

/s/ D. Michael Frink
D. Michael Frink, Esquire
Curtis Thaxter Stevens Broder & Micoleau LLC
One Canal Plaza
P.O. Box 7320
Portland, ME 04112-7320
Counsel for Maine Association of Health Plans

/s/ William Stiles
William Stiles, Esquire
Verrill Dana LLP
One Portland Square
P.O. Box 586
Portland, ME 04112-0586
Counsel for Maine State Chamber of Commerce
/s/ Bruce Gerrity
Bruce Gerrity, Esquire
Roy Pierce, Esquire
Preti, Flaherty, Beliveau, Pachios & Haley LLP
45 Memorial Circle
P.O. Box 1058
Augusta, ME 04332-1058
Counsel for Maine Automobile Dealers Association Insurance Trust

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 14, 2006, a copy of Payor Intervenor's Joint Response to Hearing Questions for Citations to the Record was served on each of the persons listed below.

Compass Health Analytics, Inc.
ATTN: Jim Highland
465 Congress Street, 7th Floor
Portland, ME 04101

Thomas C. Sturtevant, Jr.
Assistant Attorney General
Office of the Attorney General
6 State House Station
Augusta, ME 04333-0006

Alessandro A. Iuppa, Superintendent
ATTN: Vanessa J. Leon, Docket No.
INS-06-900
Bureau of Insurance
Maine Department of Professional and
Financial Regulation
124 Northern Avenue
Gardiner, ME 04345
Joseph P. Ditre, Esquire
Consumers for Affordable Healthcare
P.O. Box 2490
Augusta, ME 04338-2490

William Laubenstein, Esquire
Office of the Attorney General
6 State House Station
Augusta, ME 04333-0006

DATED: July 14, 2006

/s/ Counsel for Intervenor
Counsel for Intervenor